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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,451	11/09/2001	McGee Thomas	US 010561	3527

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EXAMINER	
ANYA, CHARLES E	

ART UNIT	PAPER NUMBER
2194	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/053,451	THOMAS ET AL.	
	Examiner	Art Unit	
	Charles E. Anya	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3/ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-30 are pending in this application.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-30 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of copending Application No. No. 10,014,196 (Hereinafter referred to as Application'196). This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

3. As to claim 1, Application'196 teaches a method of assembling and processing media content from multiple sources, comprising: establishing a profile corresponding to topics of interest (claim 1 page 6 paragraph 0069 line 37); automatically scanning available media sources, selecting a source and extracting from the selected media source, identifying information characterizing the content of the source (claim 1 page 6 paragraph 0069 lines 39-42); comparing the identifying information to the profile and if a

match is found, indicating the media source as available for access (claim 1 page 6 paragraph 0069 line 44-46); automatically scanning available media sources for a next source of media content and extracting identifying information from said next source and comparing the identifying information from said next source to the profile and if a match is found, indicating said next media source as available for access (claim 1 page 6 paragraph 0069 line 48-54).

4. As to claims 2-30, they are rejected under the judicially created doctrine of double patenting for the same reasons as stated in the rejection of claim 1 above.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 18-30 are rejected under 35 U.S.C. 102(e) as being anticipated by US. Pub. No. 2002/0152463 A1 to Dudkiewicz.

7. As to claim 18, Dudkiewicz teaches a system for creating media alerts comprising: a receiver device constructed to receive and scan signals containing media content from multiple sources (Video Receiver 60 page 8 paragraph 0073); a storage device capable of receiving and storing user defined alert profile information ("...client device..." page 8 paragraph 0073); a processor linked to the receiver and constructed to extract identifying information from a plurality of scanned signals containing media content (Data Processor 68 page 6 paragraph 0073); a comparing device constructed to compare the extracted identifying information to the user defined alert profile information and when a match is detected, make the signal containing the media content available for review (page 8 paragraphs 0073/0075).

8. As to claim 19, Dudkiewicz teaches the system of claim 18, comprising an alert indicator which is activated when a match is detected ("...audile...displaying..." page 9 paragraph 0081).

9. As to claim 20, Dudkiewicz teaches the system of claim 18, wherein the receiver, processor and comparing device are constructed and arranged to scan through all media sources scannable by the receiver to compile a subset of available media sources for review, that match the user defined alert profile information (page 5 paragraph 0053, figure 10 page 8 paragraph 0074).

10. As to claim 21, Dudkiewicz teaches the system of claim 18, including a computer constructed to receive user defined profile information and compare that information to the identifying information to identify matches (page 8 paragraph 0075).

11. As to claim 22, Dudkiewicz teaches the system of claim 18, wherein the receiver is constructed to receive television signals (Video Receiver 60 page 8 paragraph 0073).

12. As to claim 23, Dudkiewicz teaches the system of claim 18, wherein the receiver comprises a first tuner constructed to process television signals and the system further comprises a second tuner constructed to assist in the display of either media available for review or other media ("...RF tuner..." page 9 paragraph 0081).

13. As to claim 24, Dudkiewicz teaches the system of claim 18, comprising a tuner for processing radio signals (page 9 paragraph 0081).

14. As to claim 25, Dudkiewicz is silent with respect to the system of claim 18, comprising a web crawler, one of ordinary skill in the art at the time the invention was made would have known to implement the internet server (metadata provider 22) of Dudkiewicz as a web crawler such that multiple databases could be searched for matching user interested broadcast/video information.

15. As to claim 26, Dudkiewicz teaches the system of claim I 8, wherein the receiver, storage device, processor and comparing device are housed within a television set (page 8 paragraph 0073).

16. As to claim 27, Dudkiewicz teaches the system of claim 18, wherein the receiver storage device processor and comparing device are operatively coupled to a television set (page 8 paragraph 0073).

17. As to claim 28, Dudkiewicz teaches the system of claim 18, wherein the storage device is constructed and arranged to receive the profile information from a keyboard ("...graphical user interface..." page 8 paragraph 0076).

18. As to claim 29, Dudkiewicz teaches the system of claim 18, wherein the storage device is constructed and arranged to receive the profile information from a signal generated when a user performs selected mouse clicks ("...graphical user interface..." page 8 paragraph 0076).

19. As to claim 30, Dudkiewicz teaches the system of claim 18, wherein the storage device contains a plurality of selectable predefined alert profiles (page 10 paragraph 0083).

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

21. Claims 1-6,8 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2002/0147984 A1 to Tomsen et al. in view of U.S. Pat. No. 6,449,76 B1 to Krapf et al.

22. As to claim 1, Tomsen teaches a method of providing alerts to sources of media content, comprising: establishing a profile corresponding to topics of interest (Information Request 502 page 8 paragraph 0085); automatically scanning available media sources, selecting a source and extracting from the content of the selected media source, identifying information characterizing the content of the source; comparing the identifying information to the profile (figure 7 page 6 paragraph 0087) and automatically scanning available media sources for a next source of media content and extracting identifying information from said next source and comparing the identifying information from said next source to the profile (page 6 paragraph 0090/0093/0094, page 7 paragraph 0105, figure 13 page 8 paragraph 0116).

23. Tomsen is silent with respect to indicating the media source or said next media source as available for access if a match is found.

24. Krapf teaches indicating the media source or said next media source as available for access if a match is found (Step 102 Col. 6 Ln. 61 - 67).

25. It would have been obvious to on: of ordinary skill in the art at the time the invention was made to combine the teachings of Krapf and Tomsen because the teaching of Krapf would improve the system of Tomsen by providing a procedure for determining whether a source is active and operating properly and generating error message otherwise (Col. 7 Ln. 1 - 8).

26. As to claim 2, Krapf teaches the method of claim 1, wherein the scanning and comparing steps are repeated all available media sources are scanned (Col. 7 Ln. 1 - 8).

27. As to claim 3, Tomsen teaches the method of claim 1, wherein the available sources of media include television broadcasts (page 3 paragraphs 0040-0046).

28. As to claim 4, although neither Tomsen nor Kpraf teaches the method of claim 1, wherein the available sources of media include television broadcasts and radio broadcasts, one of ordinary skill in the art at the time of the invention would have known to modify the system of Tomsen and Kpraf to include radio broadcasts such that identifying information could be send as audio signal.

29. As to claim 5, Tomsen teaches the method of claim 1, wherein the available sources of media include television broadcasts and website information (page 3 paragraph 0046).

30. As to claim 6, Tomsen teaches the method of claim 1 wherein identifying information of video sources is extracted by extracting closed caption information from the video signal source (page 6 paragraphs 0084,0091).

31. As to claim 8, Tomsen teaches the method of claim 1, wherein the identifying information is extracted using screen text extraction (page 6 paragraph 0084).

32. As to claim 10, Tomsen teaches the method of claim 1, wherein the sources of media content are made available at a first location and a user at a second location remote from the first location accesses the available sources of media content (figure 1 page 3 paragraphs 0040 - 0050).

33. As to claim 11, Tomsen teaches the method of claim 1, wherein one or more of the available media sources are recorded or downloaded and reviewed at a later time (figure 12 page 7 paragraph 0108).

34. As to claim 12, Tomsen teaches the method of claim 1, wherein the profile includes topics of interest (Information 502 page 6 paragraph 0085-0086,0093).

35. As to claim 13, Krapf teaches the method of claim 1, wherein the profile includes topics of interest selected from the group consisting of sports, weather and traffic (figure 2 Col. 5 Ln. 33 - 53).

36. As to claim 14, Tomsen teaches the method of claim 1, comprising the step of activating an alert available indicator when a profile match is made (page 6 paragraph 0096).

37. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over of U.S. Pub. No. 2002/0147984 A1 to Tomsen et al. in view of U.S. Pat. No. 6,449,76 B1 to Krapf et al. as applied to claim 1 above, and further in view of U.S. Pub. No. 2003/0051252 A1 to Miyaoku et al.

38. As to claim 7, Tomsen and Krapf are silent with respect to the method of claim 1, wherein the identifying information is extracted using voice to text conversion processing.

39. Miyaoku teaches the method of claim 1, wherein the identifying information is extracted using voice to text conversion processing (page 17 paragraph 0364).

40. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Miyaoku, Tomsen and Krapf because the teaching of Miyaoku would improve the system of Tomsen and Krapf by providing a

conversation means that delivers media or video content in a language that a user wants (page 17 paragraph 0364).

41. As to claim 9, Miyaoku teaches the method of claim 1, wherein the identifying information is extracted using voice pattern or face pattern recognition (page 17 paragraph 0364).

42. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over of U.S. Pub. No. 2002/0147984 A1 to Tomsen et al. in view of U.S. Pat. No. 6,449,76 B1 to Krapf et al. as applied to claim 14 above, and further in view of U.S. Pub. No. 2002/0152463 A1 to Dudkiewicz.

43. As to claim 15, Tomsen and Krapf are silent with respect to the method of claim 14, wherein the profile contains a plurality of topics of interest and different topics are associated with different alert levels and the different alert levels are associated with different types of alert available indicators.

44. Dudkiewicz teaches to the method of claim 14, wherein the profile contains a plurality of topics of interest and different topics are associated with different alert levels and the different alert levels are associated with different types of alert available indicators ("Notice..." page 9 paragraph 0081).

45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Dudkiewicz, Tomsen and Krapf

because the teaching of Dudkiewicz would improve the system of Tomsen and Krapf by determining how (audible or banner) and when (time) to notify/alert a user of the availability of programming event (page 9 paragraph 0081).

46. As to claim 16, Dudkiewicz teaches the method of claim 14, wherein the indicator is an audible indicator ("...audible..." page 9 paragraph 0081).

47. As to claim 17, Dudkiewicz teaches the method of claim 14, wherein the indicator is a visible indicator ("...displaying..." page 9 paragraph 008).

Response to Arguments

48. Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive.

Applicant argues in substance that (1) the double patenting rejection is improper, (2) the Dudkiewicz prior art reference does not disclose that the data processor 68 extracts identifying information from received and scanned signals containing media or disclose identifying information extracted from the received and scanned signals containing media content that is compared to profile information and (3) claim 1 has been amended to include that the identifying information characterizing the content of the source is extracted from the content of the source.

Examiner respectfully traverses Applicants arguments:

As to point (1), the Examiner recognizes the error in the double patenting rejection of 12/14/04. Correction has been made to reflect provisional double patenting rejection.

As to point (2), the video signal received at the client device includes a metadata that contains an identifier of a program (page 8 paragraphs 0021/0074). The metadata including the identifier are analyzed or evaluated or compared to the viewer's viewing preferences in order to determine the desirability of a programming event (page 8 paragraph 0073/0075).

As to point (3), the mere inclusion of the term "content of the" does not the change the interpretation of the claim language and as such the prior references used in the rejection still covers the claim language.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Anya whose telephone number is (571) 272-3757. The examiner can normally be reached on M-F (8:30-6:00) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, An Meng-Ai can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles E Anya
Examiner
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